

Panaji, 27th February, 2014 (Phalguna 8, 1935)

SERIES II No. 48

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

*Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 47 dated 20-02-2014 namely:- Extraordinary dated 20-02-2014 from pages 1251 to 1252 regarding Notifications from Department of Election (Goa State Election Commission).*

### GOVERNMENT OF GOA

#### Department of Agriculture

Directorate of Agriculture

#### Order

No. 2/14/95/Agri(Part)Vol.II/417

Government is pleased to transfer the following Assistant Agriculture Officers, Group 'B' Gazetted Officers in the pay scale of ₹ 9,300-34,800+₹ 4,200/- Grade Pay of this Directorate against the stations indicated against their names therein with immediate effect in public interest.

Sr. No.	Name of the Officer & Designation	Place of present posting	Place of posting on transfer
1.	Shri Agresh Shirodkar, Farm Manager	Krishi Vigyan Kendra, Margao, South Goa	Zonal Agriculture, Officer, Quepem as Assistant Agriculture Officer against the post held by Shri Shariff Furtado, now transferred.
2.	Shri Shariff Furtado, Assistant Agriculture Officer	Zonal Agriculture Office, Quepem	Krishi Vigyan Kendra, Margao, as Farm Manager against the post vacated by Shri Agresh Shirodkar on transfer.

They would be entitled to claim joining time as per their entitlement upon actual change of residence.

By order and in the name of the Governor of Goa.

P. Tufani, Director & ex officio Joint Secretary (Agriculture).

Tonca-Caranzalem, 19th February, 2014.

#### Department of Co-operation

Office of the Registrar of Co-operative Societies

#### Order

No. 3-1-81/EST/RCS/Part/7145

Government is pleased to transfer Shri V. B. Devidas, Asstt. Registrar of Co-op. Societies, Ponda Zone, Ponda to the Office of the Assistant Registrar of Co-op. Societies, North Zone, Mapusa with immediate effect. He shall hold the additional charge of the post of Assistant Registrar of Co-op. Societies, Ponda Zone, Ponda, until further orders.

He is not entitled for any TA/DA as the transfer is made at his own request.

By order and in the name of the Governor of Goa.

J. B. Bhingui, Registrar of Co-op. Societies & ex officio Joint Secretary.

Panaji, 12th February, 2014.

#### Department of Education, Art & Culture

Directorate of Technical Education  
College Section

#### Order

No. 16-20-93-EDN-XII/3509

Read: Memorandum No. 16/139/Filling up posts/GEC/DTE/03-04/PF.III/3324 dated 24-01-2014.

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM(I)/5/18(3)/2012/114 dated 11-06-2013, Government is pleased to appoint Shri Ganesh Narayan Hegde on temporary basis to the post of Associate Professor in Civil Engineering (Group 'A' Gazetted) at Goa College of Engineering, Farmagudi, Ponda-Goa, against the post vacated by Dr. C. S. Gokhale on initial pay of ₹ 48,110/- by protecting the pay in the pay scale of Pay Band—4 ₹ 37,400-67,000+Academic Grade Pay ₹ 9,000/- with effect from the date of joining the post as per the terms & conditions contained in the Memorandum cited above.

Shri Ganesh Narayan Hegde shall be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 7th February, 2014.

-----  
**Order**

No. 11/4/94/RRP/PF/DTE/2014/3686

Read: Memorandum No. DTE/ADC/11/1/43/2008/PI/3446 dated 04-02-2014.

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM(I)/5/33(8)/2013/343 dated 02-12-2013, Government is pleased to appoint Shri Rohan Ramesh Prabhu on temporary basis to the post of Assistant Professor in Pharmaceutics (Group 'A' Gazetted) at Goa College of Pharmacy, Panaji-Goa, with initial pay of ₹ 15,600/- in the pay scale of ₹ 15,600-39,100 plus Academic Grade Pay ₹ 6000/- w.e.f. from the date of joining as per the terms & conditions contained in the Memorandum cited above.

Shri Rohan Ramesh Prabhu will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital Bambolim vide letter No. 4/105/85/H/GMC/2014/80 dated 14-02-2014. His character and antecedents have been verified and nothing adverse is reported against him as conveyed by the Additional District Magistrate,

North Goa, Panaji vide letter No. 2/6/2013-MAG/VCA/541 dated 20-02-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 20th February, 2014.

-----  
**Order**

No. 11/4/93/RSC/PF/DTE/2014/3687

Read: Memorandum No. DTE/ADC/11/1/43/2008/PI/3449 dated 04-02-2014.

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM(I)/5/33(11)/2013/358 dated 13-12-2013, Government is pleased to appoint Shri Rahul Suvarn Chodankar on temporary basis to the post of Assistant Professor in Pharmaceutical Chemistry (Group 'A' Gazetted) at Goa College of Pharmacy, Panaji-Goa, with initial pay of ₹ 15,600/- in the pay scale of ₹ 15,600-39,100 plus Academic Grade Pay ₹ 6000/- w.e.f. from the date of joining as per the terms & conditions contained in the Memorandum cited above.

Shri Rahul Suvarn Chodankar will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital Bambolim vide letter No. 4/105/85/H/GMC/2014/84 dated 17-02-2014. His character and antecedents have been verified and nothing adverse is reported against him as conveyed by the Additional District Magistrate, North Goa, Panaji vide letter No. 2/6/2013-MAG/VCA/541 dated 20-02-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 20th February, 2014.

-----  
**Order**

No. 16/262/PF/SBD/LIB/GEC/DTE/09/3533

On the recommendation of the Goa Public Service Commission, Panaji conveyed vide their confidential letter No. COM/II/12/15(2)/06/333

dated 25-11-2013, approval of the Government is hereby conveyed for the confirmation of services of Shri Sandesh B. Desai, Librarian at Goa College of Engineering, Farmagudi with effect from the date mentioned against his name below:

Sr. No.	Name of the Incumbent	Designation	Date of Confirmation
1.	Shri Sandesh B. Desai	Librarian	21-03-1998

By order and in the name of the Governor of Goa.

*Vivek B. Kamat*, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 11th February, 2014.

◆◆◆

Department of Labour

—

Order

No. 22/4/2001-Lab-Part/32

Read: 1) Government Order No. 22/4/2001-Lab-Part/653 dated 30-11-2012.

2) Government Order No. 22/4/2001-Lab-Part/434 dated 26-06-2013.

Ex post facto sanction of the Government of Goa is hereby accorded to extend the ad hoc promotion of Shri Sunil A. Gaonkar, Employment Officer (Group 'B' Gazetted) in the Pay Band—2 ₹ 9,300-34,800/- plus Grade Pay of ₹ 4,200/- in the Office of the Commissioner of Labour and Employment, Panaji-Goa for a further period of one year with effect from 30-11-2013 to 29-11-2014 on the same terms and conditions.

The expenditure shall be debited to the Budget Head 2230—Labour and Employment, 02—Employment Service, 101—Employment Services, 05—Setting up of Job Development and Vocational Guidance Unit (Non-Plan), 01—Salaries.

This issues with the concurrence of Goa Public Service Commission vide their letter No. COM/II/11/28(1)/2013/1877 dated 30-12-2013.

By order and in the name of the Governor of Goa.

*Shashank V. Thakur*, Under Secretary (Labour).

Porvorim, 7th January, 2014.

Notification

No. 28/1/2013-Lab/559

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 18-07-2013 in reference No. IT/3/2002 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*Meena Priolkar*, Under Secretary (Labour).

Porvorim, 12th August, 2013.

—————

IN THE INDUSTRIAL TRIBUNAL AND  
LABOUR COURT  
GOVERNMENT OF GOA AT PANAJI

(Before **Smt. Bimba K. Thaly**, Presiding  
Officer)

Ref. No. IT/3/2002

Shri Jose Gomes,  
House No. 422/3  
Vernem, Mansher,  
Pilerne, Bardez, Goa.

.... Workman/Party I

V/s

M/s. Hotel Samrat,  
Dr. Dada Vaidya Road,  
Panaji, Goa.

... Employer/Party II

Adv. Shri B. A. Kapdi for Workman/Party I.

Adv. Shri G. Singh for Employer/Party II.

AWARD

(Passed on this 18th day of July, 2013)

By order dated 24-1-2002, bearing No. 28/15/2001-LAB the Government of Goa in exercise of the powers conferred by clause (d) of sub-section 1 of Section 10 of The Industrial Disputes Act, 1947 (for short The Act) has referred the following dispute for adjudication.

“(1) Whether Shri Jose Gomes, Purchase/Operation Executive, could be construed as “Workman” as defined under the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

(2) If the answer to (1) above is in affirmative, then, whether the action of the management of M/s. Hotel Samrat, Panaji, Goa, in terminating the services of Shri Jose Gomes, Purchase/Operation Executive, with effect from 1-7-2000, is legal and justified.

- (3) If the answer to (2) above is in negative, then to what relief the said Workman is entitled ?”

2. Upon receipt of the reference, a case was registered under No. IT/3/2002 and registered AD notices were issued to both the parties and upon service, Party I filed the claim statement at Exb. 4 and Party II filed the written statement at Exb. 6.

3. It may be mentioned here that at the initial stage, Party II though served did not appear before the Court and hence the proceedings proceeded ex-parte against Party II. In the course of ex-parte proceedings the evidence of Party I was recorded and after hearing the arguments of Party I, an award dated 1-9-2004 was passed by my learned predecessor, in favour of Party I. Records reveal that subsequently Party II filed application vide Misc/3/2004 for setting aside the ex-parte award dated 1-9-04 and after hearing both the parties my learned predecessor set aside the said ex-parte award dated 1-9-04 with payment of cost of Rs. 1500/- by Party II to Party I. It was thereafter the written statement at Exb. 6 came to be filed.

4. In the claim statement it is the case of Party I that he was appointed as Purchase Executive by the Party II vide letter dated 1-11-97 and by letter dated 1-11-98 he was confirmed as an Operations Executive w.e.f. 1-12-98. It is stated that the terms of appointment for Operations Executive were same in all respects for Purchase Executive except for some minor changes. It is stated that in para 12 of appointment letter dated 1-11-97 it was mentioned that Party I would be responsible for the safe-keeping and returning in good condition all the property of the company which may be in use, custody, care or charge and that the company would have the right to deduct money value of all such property from the dues of Party I or take such other action as may be deemed proper in the event of Party I failure to account for such property to the company's satisfaction. It is stated that there is no other clause in the letter of appointment which speaks of the nature of the duties of Party I. That by letter dated 3-6-2000, Party II informed Party I that his services were no longer required from 1-7-2000 and thus retrenched Party I from services without any reason and without any notice and also without payment of any salary from 1-1-2000 till 30-6-2000 and other terminal dues till date. That by letter dated 20-10-2000 Party I sought intervention of Labour Commissioner but said proceedings ended in failure. It is stated that termination of services of Party I is illegal and unjustified and without reasonable cause and also

for no misconduct committed by him. It is stated that Party I was not offered or paid retrenchment compensation nor one month's notice or wages in lieu of notice were paid. Party I has therefore prayed for an award holding that he is a Workman under the Act and that the action of Party II in terminating his services is illegal and unjustified and directing Party II to reinstate him with full back wages, continuity of service with all benefits and privileges attached to his post.

5. In their written statement Party II has denied the case put forth by Party I and has stated that Party I was appointed as Purchase Executive and later confirmed with the designation as Operation Executive which designation gave him the status of head of the Department and which duties apart from the various other duties of the head of Department included the duties of sanctioning of leave of other employees within his Department. It is stated that by letter dated 30-6-2000 Party II informed the Party I that his services were no longer required from 1-7-2000 and not that he was retrenched. It is stated that Party I was requested to contact the Accounts Department for the salary arrears but he neither contacted the Accounts Department nor visited the office of Party II to collect his salary dues. It is stated that as per para 3 of the appointment letter dated 1-11-97 on confirmation, one months advance in writing or the salary thereof was required by the Party to terminate the appointment and hence the services of the Party I were terminated as per said para 3 of the appointment letter dated 1-11-97 and therefore the termination is legal and justified as per the contract. Party II has denied that Party I is a Workman in view of the nature of work/duties done by him. Thus, in short, Party II has prayed to dismiss the reference as Party I is not a Workman as defined under the Act and also this being not a dispute under the Act and further this also being not a retrenchment under the Act.

6. Records reveal that the matter was then fixed for filing of the rejoinder but Party I despite given several opportunities failed to file the same. Hence my learned predecessor passed the order dated 17-4-2007 stating that “rejoinder not filed” and proceeded further with the matter. It was thereafter Party I filed the application for setting aside of the order dated 17-4-2007, which order was accordingly set aside by my learned predecessor by order dated 18-5-2007. Records however reveal that despite setting aside of the order dated 17-4-2007 and granting permission to Party I to file the rejoinder subject to cost of Rs. 100/- to be paid immediately to Party II, Party I did not file the

rejoinder. It therefore follows that the contentions made by Party II in the written statement, have remained uncontroverted.

7. Based on the pleadings of both the parties, the issues were framed on 18-5-07 (Exb. 7).

8. In support of his case Party I, Mr. Jose Gomes examined himself which is by filing affidavit in evidence as well as additional affidavit in evidence (which is after setting aside of the ex-parte award). Party II examined Shri Sunil Anant Naik and closed the case.

9. Both the learned advocates filed written submissions, which are at Exb. 31 and Exb. 32 respectively.

10. I have gone through the records of the case and have duly considered the arguments of both the Parties. I am reproducing herewith the issues along with their findings and reasons thereof:

Sr. No.	Issues	Findings
1.	Whether the Party I is a Workman as defined under Section 2(s) of the Industrial Disputes Act, 1947?	In the Negative.
2.	Whether termination of Party I from service by the Party II w.e.f. 1-7-2000 is legal and justified?	In the Positive.
3.	Whether the Party I is entitled to relief as prayed for?	In the Negative.
4.	What Award?	As per order below.

#### REASONS

11. Before advertng myself to the discussion on the issues, it is worth while deciding the aspect of, competency of the reference sent by the Government since Party II in the written statement has pleaded that this is not a dispute under the Act In the judgment in the case of *Sindhu Resettlement Corporation Ltd., V/s Industrial Tribunal 1968 SC 529* it is held that a mere demand to the Government without a dispute being raised with the employer cannot become an "industrial dispute". In this judgment it is observed as under:

*"It was urged by Shri Gopalkrishnan on behalf of the respondents that this Court cannot examine whether the Government in forming its opinion that an industrial dispute exists, came to its view correctly or incorrectly on the material before it. This proposition is, no*

*doubt, correct; but the aspect that is being examined is entirely different. It may be that the conciliation officer reported to the Government that an industrial dispute did exist relating to the reinstatement of respondent 3 and payment of wages to him from 21 February, 1958, but when the dispute came up for adjudication before the tribunal, the evidence produced clearly showed that no such dispute had ever been raised by either respondent with the management of the appellant. If no dispute at all was raised by the respondents with the management, any request sent by them to the Government would only be a demand by them and not an industrial dispute between them and their employer. An industrial dispute, as defined, must be a dispute between employers and employees, employers and Workmen and Workmen and Workmen. A mere demand made to a Government, without a dispute being raised by the Workmen with their employer, cannot become an industrial dispute. Consequently, the material before the tribunal showed that no such industrial dispute, as was purported to be referred by the State Government to the tribunal, had ever existed between the appellant-corporation and the respondents and the State Government, in making a reference, obviously committed an error in basing its opinion on material which was not relevant to the formation of opinion. The Government had to come to an opinion that an industrial dispute did exist and that opinion could only be formed on the basis that there was a dispute between the appellant and the respondents relating to reinstatement."*

12. In the case at hand Party I has pleaded in the claim statement that after he was issued letter dated 30-6-2000 by the employer informing that his services were no longer required, by letter dated 20-10-00 he sought the intervention of the Labour Commissioner in his capacity as conciliation officer to intervene in the dispute and initiate conciliation proceedings but the said proceedings ended in failure and the Government referred the dispute for adjudication to this Tribunal. The above contents of the claim statement are reiterated in the affidavit in evidence of Party I, It is however noted that Party I has not produced the copy of the said letter dated 20-10-00, before this court. This was required to find out if any demand for reinstatement was made by Party I before the employer and this was because no such statement has been made by

Party I in his claim statement or his affidavit in evidence. Thus, the fact that remains is that Party I without raising such demand with the employer has directly approached the conciliation officer to intervene in the matter. This being the situation, in the light of the ratio in the judgment in the case of **Sindhu Resettlement (supra)**, the State Government was not competent to refer the question of the reinstatement of the Workmen for adjudication by this Tribunal.

13. With the observations as above, I would now proceed to give my findings on the issues.

14. *Issue No.1:* It is the contention of Party I that he is a Workman under the Act as according to him as Operation Executive/Purchase Executive his duties were mainly restricted to purchase of food items and other items for hotel and its kitchen etc. He has stated that his employment with Party II was of subordinate and clerical nature such as keeping of purchase record etc. He has stated that he never performed any supervisory duty and was subject to all the conditions mentioned in the appointment letter dated 1-11-97 such as availing of leave to him by the General Manager, his presence in the premises was restricted only during the duty hours, meal only while on duty and conditions such as retirement at the age of 50 years etc. Thus, according to him his status with the Party II was that of a Workman and not in the managerial capacity. He has produced the xerox copy of his appointment letter dated 1-11-97 at Exb. W-1.

15. Party I has further stated that his employment with Party II was confirmed by letter dated 1-11-98 on the same terms and conditions mentioned in Exb. W-1. He has produced the copy of the said confirmation letter dated 1-11-98 at Exb. W-2. He has stated that he was not invested with the powers and duties of executive nature such as sanctioning of leave to other employees, recruitment, decision making power to initiate disciplinary action etc. He has stated that he never performed supervisory duties and no person was working under him, under his Supervision. In his additional affidavit in evidence, Party I has categorically stated that he never sanctioned any leave to any employee and he never enjoyed such power of sanctioning leave to any employee.

16. In the cross examination of Party I he was shown a leave application dated 30-11-98 and Party I has admitted that this application bears his signature at two places. The same is marked as Exb. 15. Party I was also shown another 22 leave applications (relied upon by Party II in the list of

documents) but Party I has stated that none of these applications bear his signature. Party I has denied the suggestion that the above 22 leave applications bear his signature as Head of the Department. Party I was also shown his Confidential Personal Appraisal Form and he has stated that this document does not bear his signature.

17. Shri Sunil A. Naik, the Managing Partner of M/s. Naik Hotel's (Hotels Samrat), the witness of Party II, has stated that apart from other duties as Head of Department, Party I sanctioned the leaves of Workmen working in his department and that all the leave applications sanctioned by Party I in the capacity as the Head of Department used to be forwarded to him for information and on the basis of the same final salary sheet was prepared every month by his Accountant and therefore he is acquainted with the signatures of Party I. He has produced 34 leave applications signed by Party I and submitted to him from time to time w.e.f. from 1998 till the termination of services of Party I, at Exb. 25 colly. He has also produced Confidential Personal Appraisal Form of Party I dated 31-3-98 at Exb. 26.

18. In his cross examination he has made it clear that Party I was the Head of the Department of Purchase and Stores. Upon being shown the letter of appointment dated 1-11-97 (Exb. W1/Exb. 27), this witness has admitted that no duties connected to the managerial cadre are mentioned in this letter. This witness has also admitted that in the letter of confirmation (Exb. W-2/Exb. 28) no duties of managerial nature are mentioned. As regards the leave applications at Exb. 25 colly, this witness has stated in his cross examination, that the workers whose leave applications are at Exb. 25 colly were working in Operation Department and Party I has sanctioned their leave as Head of Department. Upon being shown the Confidential Personal Appraisal form at Exb. 26, and more particularly Clause (b) in it, this witness has stated that in the year 1997 Party I was only the Head of Department of Purchase. This witness has denied the suggestion that Party I signed the leave applications of other staff as Head of Department because the actual Head of Department was on leave and the job of Party I was incidental with regard to signing of leave applications. He has also denied the suggestion that the leave records at Exb. 25 colly are manipulated documents.

19. It cannot be disputed that the burden of proving that he is a Workman as defined under the Act is on Party I. Reference in this context is made to the judgment in the case of **S.T. Galande v/s**

**P.O. IInd Labour Court, Pune 2008 (I) CLR 656** in which the Hon'ble High Court of Bombay has observed as under:

*"... It is settled principle of law that the onus lies upon the Workman to prove that he satisfies the essential ingredients of being a Workman and, therefore, could raise an industrial dispute....."*

20. It is not in dispute that vide Exb. W-1 Party I was offered the post of Purchase Executive while vide Exb. W-2 Party I was confirmed as Operations Executive. Undoubtedly, the terms of appointment as Operations Executive are the same in all respects for Purchase Executive except for some minor changes. It is also not in dispute that there is no specific mention of the duties allotted to Party I either in Exb. W-1 or Exb. W-2, except for Clause No. 12 in Exb. W-1 which reads as under:

*"you will be responsible for the safekeeping and returning in good condition of all property of the company which may be in use, custody, care or charge. The company shall have the right to deduct the money value of all such property from your dues and/or take such other action as may be deemed proper in the event of your failure to account for such property to the company's satisfaction."*

21. In his evidence Party I except for producing Exb. W-1, Exb. W-2 and the letter of termination dated 30-6-2000 has not produced any documentary evidence to establish the actual nature of duties performed by him as Operations Executive. Though Exb. 26 which is the Confidential Personal Appraisal Form of Party I dated 31-3-98 speaks about "Present job descriptions" of Party I which are (a) Purchases for the entire hotel (b) taking care of individual dept. purchases and (c) looking after the stock, in his cross examination, Shri Sunil Naik when shown above Clause (b) on Exb. 26 has stated that in the year 1997 Party I was only the Head of Department of Purchase. Nevertheless, the above document by itself cannot be construed to mean that it speaks about the duties with which Party I was invested or that he is a Workman and this is because evidence on record goes to indicate that Party I was also invested with the powers of sanctioning the leave and which fact would be apparent from the discussion to follow.

22. I have already pointed out supra that in his written statement and also in his affidavit in evidence, Party I has categorically stated that he was not invested with the power of sanctioning

leave to other employees. However in his cross examination he has admitted that Exb. 15 which is his leave application dated 30-11-98 has been signed by him as Head of Department. No doubt, he has denied his signatures on 22 leave applications, shown to him in his cross examination but it is seen that in the cross examination of Shri Sunil Naik, it is admitted by Party I that the leave applications of the workers working in Operation Department, at Exb. 25 colly (which are in all 34 leave applications including 22 leave applications shown to Party I in his cross examinations) were sanctioned by Party I as Head of Department. Perusal of Exb. 25 colly reveal that these leave applications include the leave applications filed in the year 1999 and 2000 by different persons, which means the same were sanctioned by Party I after he was confirmed as Operations Executive w.e.f. 1-12-1998, vide Exb. W-2. This by itself makes it clear that Party I was vested with the power of sanctioning of leave during the above period.

23. Be that as it may, cross examination of Shri Sunil Naik also reveals that it is the case of Party I that he had signed these leave applications as Head of Department because the actual Head of Department was on leave and the job of Party I was incidental with regard to the signing of leave applications. It deserves to be noted at this juncture that nowhere in his claim statement or in his affidavit in evidence, Party I has stated that he had signed the leave applications as Head of Department because the actual Head of Department was on leave. Party I has also not stated the name of the said so called actual Head of Department or as to on which days the said so called actual Head of Department was on leave. Thus, the above suggestions put to Shri Sunil Naik, by itself make it clear that Party I admits of having signed the aforesaid leave applications in the capacity as Head of Department and as regards the contention of Party I that he signed the same only because the actual Head of Department was on leave, the same cannot at all be believed for want of evidence on the part of Party I.

24. It is also the case of Party I in the cross examination of Shri Sunil Naik that the leave records at Exb. 25 colly are manipulated. The above defence taken by Party I while cross examining Sunil Naik viz-a-viz the statements made by Party I in the claim statement and his affidavit in evidence denying that he had power to sanction leave, make it clear beyond doubt that the stand taken by Party I on the subject of his powers of

sanctioning leave is contradictory and apparently is not convincing. It also follows from above, that the statements made by Party I in his claim statement and his affidavit in evidence, on the subject of having no power to sanction leave are not trustworthy and therefore the statements of Party I have to be looked upon cautiously.

25. It cannot be disputed that the designation or the name of the post is not a decisive factor to find out whether the person concerned is a Workman or not. In the judgment in the case of **Union Carbide (India) Ltd., and D. Samuel and others W.P. No. 2596 of 1994 (Bombay High Court)** one of the tests laid down to find out if the person concerned is a Workman or otherwise is to see if he has power to sanction leave or recommend it. It is made clear in this judgment that designation is not material but what is important is the nature of work. Further, in the judgment in the case of **Karnataka Bank Ltd. v/s Sunita B. Vatsaraj 2007 CLR 650** it is observed that as power to sanction leave is of considerable importance in any organization and that a leave is sanctioned to an employee only after assessing the exigencies and load of work by an officer who ordinarily supervises the work of an employee asking the leave. Thus, the above observations viz-a-viz the nature of duties actually performed by the Party I and more particularly of sanctioning leave, suggest that Party I is a non-Workman.

26. No doubt, the letter of confirmation at Exb. W-2 does not disclose any managerial powers vested upon Party I but as pointed by me above the nature of work actually done by Party I in such capacity is material to find out if Party I is a Workman u/s 2(s) of the Act. Discussion supra, therefore makes it clear Party I has failed to prove this issue and hence my findings.

27. *Issue No. 2:* Party I has stated that all of a sudden without any enquiry and without any justification Party II arbitrarily terminated his services by letter dated 30-6-2000. He has produced the copy of the said letter at Exb. W-3. Reading of Exb. W-3 makes it clear that Party I was informed that his services as Operation Executive are no longer required on and from July 1, 2000 and that he will be paid one month's salary in lieu of notice along with his dues. It may be mentioned here that Party I having failed to prove that he is a Workman under the Act, the question of holding any enquiry does not arise and hence the termination of his services cannot be called as illegal and unjustified. Hence my findings.

28. *Issue No. 3:* In view of discussion in issue No. 1 & 2, Party I is not entitled to any relief.

29. In the result, I pass the following:

#### ORDER

1. It is hereby held that Shri Jose Gomes, Purchase/Operation Executive is not a "Workman" as defined under the Industrial Dispute Act, 1947 (Central Act 14 of 1947).

2. It is hereby further held that the action of management of M/s. Hotel Samrat, Panaji, Goa in terminating the services of Shri Jose Gomes, Purchase/Operation Executive, with effect from 1-7-2000 is legal and justified.

3. Party I Shri Jose Gomes, Purchase/Operation Executive is therefore not entitled to any relief.

4. No order as to costs.

Inform the Government accordingly.

Sd/-  
(B. K. Thaly)  
Presiding Officer,  
Industrial Tribunal-  
cum-Labour-Court.

#### Notification

No. 28/1/2013-Lab/565

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 30-07-2013 in reference No. IT/55/94 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Meena Priolkar, Under Secretary (Labour).

Porvorim, 14th August, 2013.

IN THE INDUSTRIAL TRIBUNAL AND  
LABOUR COURT

GOVERNMENT OF GOA

AT PANAJI

(Before Ms. Bimba K. Thaly, Presiding  
Officer)

Ref. No. IT/55/94

Shri P. K. Vaidhya (expired) rep. by LR's,

1. Mrs. Veena Vaidhya,
2. Ms. Manasi Vaidhya,

3. Mr. Ameya Vaidhya,  
C-4, Super Market, Behind Hotel  
Gomantak, Ponda, Goa. ....Workman/Party I  
V/s

M/s. Arlem Brewaries,  
At Brewery, Arlem,  
Raia, Goa. .... Employer/Party II  
Workman/Party I represented by Adv. Shri P. J.  
Kamat.

Employer/Party II represented by Adv. Shri M. S.  
Bandodkar.

#### AWARD

(Passed on this 30th day of July, 2013)

By order dated 1-11-1993, bearing No. 28/14/90-LAB, the Government of Goa in exercise of the powers conferred by clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (for short The Act) has referred the following dispute for adjudication.

"(1) Whether Shri P. K. Vaidhya, Assistant Accountant of M/s. Arlem Breweries Ltd. was a Workman under Section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?

(2) If so, whether the action of the management of M/s. Arlem Breweries Ltd.; in terminating the services of Shri P. K. Vaidhya, Assistant Accountant, with effect from 3-6-89, is legal and justified?

(3) If the answer to (2) above is the negative, to what relief the Workman is entitled?"

2. Upon receipt of the reference, a case was registered under No. IT/55/94 and registered A.D. notices were issued to both the parties and upon service, Party I filed the claim statement at Exb. 4. and Party II filed written statement at Exb. 5. Party I then filed the rejoinder at Exb. 6.

3. In the claim statement it is in short the case of Party I/Workman that he joined the organization of M/s. Mainland Dock's Ltd., on 10-4-76 and subsequently he was promoted as Junior Officer in Grade-A w.e.f. 1-7-79. That thereafter his services were transferred to M/s. Chowgule and Co. Pvt. Ltd., on 21-7-84 and he was promoted as Asst. Accountant Grade-B. That thereafter his services were transferred to Party II and posted in one of its division namely Arlem Electronics at Bethora, Ponda-Goa. It is stated that Party I was appointed mainly to carry out the work of accounts and though he was categorized in officer cadre, he was doing the work of an accounts clerk throughout. It is stated that Party I has been handling the cash

disbursement, writing of petty cash book, maintenance of central excise records etc. which work was essentially of clerk. It is stated that thought at times Party I had signed some correspondence for M/s. Arlem Electronics, it was done for convenience and not in the administrative or managerial capacity and that said correspondence was signed at the instructions of factory manager. It is stated that Party I had no authority to sanction or recommend leave, to operate bank accounts of Party II, to bind Party II in all or every matter with the third person or to use any power for and on behalf of the Party II. It is stated that all gate passes are in the handwriting and under the signature of Party I so also all the typed written letters are under his signature and are typed by him personally. It is stated that the services of Party I were terminated by Party II vide letter dated 3-6-89 and that no cheque dated 6-6-89 was enclosed with this letter though it is so mentioned at the foot of the letter. It is the contention of Party I that termination of his services is contrary to the provisions of the certified standing orders of the Company. It is stated that Party I applied and proceeded on 35 days leave from 21-4-89 to 25-5-89 but Party II sanctioned his leave only upto 16-5-89 and he was required to report to Mr. S. R. Kore on 17-5-89 and accordingly when he reported Party I found that his name was not shown on the muster roll and he was thus told to contact the administrative manager whom he could contact only on 23-5-89. It is stated that the administrative manager told Party I to resign from service and Party I showed his willingness to resign conditionally but his conditional resignation was not accepted. It is stated that Party I was thus prevented from reporting for work from 17-5-89. It is stated that thereafter Party I proceeded on sick leave by sending application dated 31-5-89. It is stated that thereafter Party I sent medical certificate vide letter dated 9-6-89 and went to report for duties at corporate office on 9-6-89 but was prevented from signing the muster roll. It is stated that Party I addressed a letter to that effect to the administrative manager which was replied by Party II vide reply dated 20-8-89 informing that services of Party I were terminated vide letter dated 3-6-89 sent to Party I at his Sangli address by registered A. D. post. It is the contention of Party I that the termination clearly falls in the category of retrenchment as defined u/s 2(oo) of the Act. It is stated that at the time of termination, Party II did not comply with the provisions of Sec. 25F of the the Act and as such the action of Party II is illegal, unlawful and bad and that Party I is therefore entitled for reinstatement in service with full back wages and all the benefits.

4. In the written statement Party II has denied the case set up by Party I and has stated that Party I was working in supervisory and managerial capacity and was drawing salary of more than Rs. 1,600/- per month he is not a Workman u/s 2(s) of the Act. It is stated that as an Assistant Accountant Party I was supervising the work of the assistant and was in Grade-B. It is stated that Party I as the officer of company was enjoying all the facilities given to the officers like travelling allowance, L.T.A., reimbursement of medical expenses, scooter allowances etc. which are applicable and given only to the said type of officers of the company. It is stated that as a senior officer of the company and in-charge of Accounts Department at Arlem Electronics and in view of his managerial capacity, Party I was provided with double bed room flat at super market complex, Ponda and this facility was given only to the senior executives of the company. It is stated that Party I was assigned the work of looking after entire work of Accounts as the in-charge of Arlem Electronics and he was doing the said work independently. It is stated that Party I was authorised to sign all the documents in connection with central excise and that this authority cannot be delegated to the clerk. It is stated that Party I was looking after the stores of the factory and supervising the work of stores staff. It is stated that Party I was authorized to sign the letters in administrative managerial capacity and that he was next to factory manager in seniority. It is stated that Party I was authorized to supervise the dispatches of the finished goods and was signing the correspondence to this effect. It is stated that Party I, after his leave was sanctioned upto 16-5-89 was advised to report on 17-5-89 but he did not report and instead tried to remain away from the work. It is stated that services of Party I were terminated by letter dated 3-6-89 and Party I was paid one month's salary in lieu of notice alongwith the letter of termination. Thus, according to Party II no case has been made out by Party I granting any relief.

5. In the rejoinder Party I has controverted the case of Party II and has asserted the case pleaded in the claim statement.

6. Based on the pleadings of both the parties, issues were framed on 13-2-95 (Exb.7).

7. In support of his case Party I, Shri Pranaychand Kashinath Vaidhya examined himself whereas Party II examined Shri Sambhaji Namdeo Pawar as witness No. 1 and Shri Ashok Gaiwad as witness No. 2 and closed the case.

8. Heard learned Adv. Shri P. J. Kamat for Party I and learned Adv., Shri M. S. Bandodkar for Party II. Both the learned advocates also filed written submissions.

9. I have gone through the records of the case and have duly considered the case advanced by both the parties. I am reproducing herewith the issues alongwith their findings and reasons thereof.

Sr. No.	Issues	Findings
1.	Whether Party I proves that he was a Workmen within meaning of Sec. 2 (s) of I.D. Act, 1947?	In the positive.
2.	Whether Party I proves that termination of his services by Party II amounts to retrenchment as defined under Section 2(oo) of the I. D. Act 1947?	In the positive.
3.	Whether Party I proves that the action of Party II in terminating his services w.e.f. 3-6-89 is illegal unjustified?	In the positive.
4.	Whether Party I is entitled to any relief ?	As per award below
5.	What Award?	As per order below.

#### REASONS

10. Issue No. 1: Ld. Advocate for Party I by referring to the evidence of Party I stated that initially Party I joined the services of Mainland Docks Ltd., (MDL) from 10-4-76 at Chowgule House, Marmagao-Goa as Section Head and as such he was writing the Accounts of MDL and thereafter he was promoted as Junior Officer Grade-A where also he was writing the books of Accounts. That on 12-6-84 Party I was transferred to Chowgule and Co. as Assistant Accounts Grade-B where also he was writing the books of Accounts and Vouchers and that after 31-12-87 the services of Party I were transferred to Party II w.e.f. 1-1-88 and immediately thereafter he was deputed at Arlem Electronics, a division of Party II at Bethoda. He stated that at Arlem Electronics as an Assistant Accountant Party II was preparing cash vouchers, writing petty cash book and maintaining central excise records which work was of clerical nature. He stated that Party II had no authority to sanction or recommend leave, to operate bank account or to bind Party II to in any third party and therefore the nature of duties performed by Party I were of clerical nature. He stated that therefore Party I was a Workman u/s 2(s) of the Act.

11. He relied on the judgment in the case of **Western India Match Co. Ltd. vs Their Workmen 1964(3) SCR 560** in which the apex court has held that the employees concerned were Workmen because 75% of their time was devoted to the writing work. Ld. Advocate for Party I also stated that gate passes were signed by Party I as a matter of convenience and that he had no authority to sign the said gate passes. By referring to Rule 52A of the Central Excise Rules r/w trade notice No. 20/94 dated 30-3-94 Ld. Advocate for Party I submitted that an officer of the company who is authorized by the Board of Director for authentication of invoice can only authenticate invoices. According to Ld. advocate for Party I since it is admitted by Shri Pawar that his signature and that of the manager was lodged with the excise department and further as Shri Gaikwad has also made it clear no board resolution was taken as required under rule 52A above, it cannot be said that Party I was legally empowered to sign the gate passes or RG-23A form. Thus according to him Party I signed the above documents as a matter of convenience and not in the administrative or managerial capacity. By referring to the designation of Party I which is Asst. Accountant Grade B he relied on the judgment in the case of **Mukand Ltd. V/s Mukand Staff and Officers Association 2004 (101) FLR 219** contending that the question of class to which the employees belong is to be decided not on basis on grades in which they are placed but on the basis of their duties, responsibilities and powers.

12. On the other hand Id. Advocate for Party II by relying on the judgment in the case of **V.N.S. Engineering and Services Company v/s Industrial Tribunal, Goa, Daman and Diu and another 1987 II LLN 963**. Argued that burden lies on the employee who caused the reference to prove that his termination was illegal. He then relying on the judgment in the case of **S. K. Maini v/s Carona Sahu Co. Ltd. and others 1994 II CLR 359** submitted that the designation of an employee is not of much importance and what is important is the nature of duties being performed by the employee. He also stated that the determinative factor is the main duties of the employee concerned and not some works incidentally done. By inviting my attention to observation in the judgment in the case of **Delhi Transport Corporation v/s Jugat Singh 2008 LLR 952**, Id Adv. for Party II stated that Party I was required to produce to documentary evidence to prove that he was a 'Workman' which he failed to produce. He also relied on the judgment in the case of **Twenty First Century Printers Ltd., Mumbai v/s K. P. Abraham and another 2008 III**

**CLR 616** and stated that the true test to find out if the person concerned is a workman of otherwise must depend on the nature of the function and not whether the person has any other employee working under him. He also relied on the judgment in the case of **Burmah Shell Oil Storage and Distribution Co. of India Ltd., v/s Burmah shell Management Staff Association 1970 (3) SSC 378** to contend that when a person does manual, technical as well as supervisory work, for the purpose of determining under which classification under Section 2(s) of the Act he falls, it is required to see what is the main work of the said person though he may be incidentally doing other type of work. By referring to the cross examination of Party I wherein he has stated that upon his transfer as an Assistant Accountant with Chowgulle and Co. he was getting facilities like reimbursement of medical expenses, conveyance allowance and a flat for his accommodation so also fixed sum of Rs. 1,800/- per year towards leave travel concession. He stated that the above facilities were given to Party I as his post as Assistant Accountant was of supervisory/managerial nature and that this was a promotional post. He also stated that as an Assistant Accountant Party I was reporting to General Manager i.e. a person holding top position. He also stated that Party I has signed the vouchers at Exb. W-2 and W-3 above the word Assistant Manager so also that he was authorized to sign the letters addressed to the Central Excise as well as the gate passes. According to him it is not required to see if the said authority was legally conferred upon Party I but only the duties actually performed by Party I are required to be considered to find out if he falls in the category of Workman or otherwise. He stated that since Party I was in the entire custody of cash he was holding a position of confidence therefore in such situation Party I cannot be considered as a Workman. Thus, according to Id. advocate for Party II, in the light of observations in the judgments relied upon by him, Party I cannot be considered as a Workman.

13. Undisputedly, Party I joined M/s Mainland Docks Ltd., on 10-4-76 as Section Head and subsequently he was promoted as junior officer Grade-A with effect from 1-07-79. Party I was thereafter transferred to M/s. Chowgule & Co. Pvt. Ltd. on 21-7-84 and was promoted as Assistant Account Grade-B. Thereafter the services of Party I were transferred to Party II w.e.f. 1-1-88 by letter dated 29-12-87 and he was posted in one of its division namely Arlem Electronics at Bethora, Ponda, Goa. It is not in dispute that at the time of termination of services of Party I, he was drawing wages exceeding Rs. 1,600/- p.m.

14. There is otherwise no dispute that the vouchers in book II for the period from 12-7-88 to 16-9-88 at Exb. W-4 are in the handwriting of Party I. It is also not in dispute that central excise gate passes for the period from 25-4-88 to 16-3-89 at Exb. W-6 colly are in the handwriting and under the signature of Party I. Further, the personnel ledger account for the period from 23-4-88 to 25-3-89 at Exb. W-7 colly is also in the handwriting of Party I. Even for that matter, from RG-23A Party I for the period from 1-9-88 to 1-3-89 at Exb. W-8 colly and from RG-23A Party II for the period from 5-7-88 to 28-3-89 at Exb. W-9 colly in the handwriting of Party I. It is therefore clear from the documentary evidence that the nature of the work done by Party I is of writing of various records/documents as above and this indicates that Party I was doing the work of preparing various documents and writing/typing correspondence for Party II.

15. No. doubt, Party I has made it clear in his cross examination that the post of Jr. Officer Grade-A is a Supervisory post and also that his transper as Asstt. Accountant in Chowgule and Co. is by way of promotion but as observed in the judgment in the case of **S. K. Maini (supra)** the designation of the employee is of not much importance and only what is important is the nature of the duties performed by the employee to find out if he is a Workman or otherwise. Merely because Party I has made a statement that post of Jr. Officer Grade A is a supervisory post would not put the said post in supervisory category unless it is established that the duties performed by party I as Jr. Officer Grade A were of supervisory nature, irrespective of the fact that at the time of termination of his services Party I was holding the post as Asst. Accountant Grade B which according to Ld. Advocate for Party II being a promotional post has also to be a supervisory/managerial post.

16. Be that as it may, in his cross examination to the question if any person was working under him when Party I was working as Assistant Account in Chowgule and Co., Party I has answered in the negative. In this context evidence of Shri Sambhaji N. Pawar, the Asstt. Administrative Manager in Arlem Electronics, gains significance since in his examination in Chief this witness has categorically stated that Party I was not doing any clerical work but in his cross examination has made it clear that Party I was the only person who was working in the Accounts Department of Party II. He has also stated that he does not remember as to who was writing the books of Accounts in Arlem Electronics and that he does not know what clerical work was being done by Party I in Arlem Electronics. Even to the

suggestion that Party I was the only person working in the Accounts Department of Arlem Electronics and was writing the books of accounts such as ledgers, vouchers etc. Shri Pawar has stated that he does not know. To the suggestion that all the typing work in the Accounts Department was done by Party I, Shri Pawar has stated that he does not know. I have already pointed out above that the designation of Shri Pawar, in Arlem Electronics was that of Asst. Admn. Manager and therefore it is not expected of a person in that designation not to know as to who was writing the books of accounts, as to what clerical work was done by Party I or if Party I was the only person there writing the books of accounts etc. and was doing typing works in the accounts department. From the nature of answers given by Shri Pawar being the Asst. Admn. Manager in Arlem Electronics, adverse inference needs to be drawn against his such statements by holding that it was Party I who was doing all the above works or else Shri Pawar would have definitely mentioned the name of the person who was doing the above works.

17. Coming to the evidence of Shri Ashok Gaikwad, in his chief examination he has stated that Party I was entrusted with the supervision of stores of Arlem Electronics factory and he was also supervising the work of stores staff. Shri Gaikwad has also stated that there were clerical staff working under Party I who used to write the books of accounts and prepare vouchers. He has stated that there was steno typists to type the correspondence. It may be mentioned here that the case to the above effect is not suggested to Party I nor it is pleaded in the written statement that there were clerical staff working under Party I and there were steno typists to type the correspondence.

18. In his cross examination Shri A. Gaikwad, has stated that Party I was the only person working in the accounts department of Arlem Electronics and that all accounts of this department was looked after and maintained by the accounts department of Arlem Electronics. He has admitted that accounting involves preparation of cash vouchers, credit vouchers, writing of cash books, ledger books, impressed cash book, preparation of receipt for payment etc. Though according to him two clerks from the stores department who were reporting to Party I were doing all these works. I have already pointed out above that such statement of witnesses of Party II on the subject of assistants to Party I cannot be believed for the reasons aforesaid. Nonetheless from the nature of above depositions of Shri Pawar and Shri Gaikwad, the inference that can be drawn is that the versions of both of them

are contrary to each other and that Party I was the sole person working in the Accounts Department of Arlem Electronics doing the work of writing documents and making correspondence. It therefore follows that Party II has improved its case in the course of the proceedings of this matter.

19. Nevertheless, as observed in the judgment in the case of twenty first Century (*Supra*) to find out if the person is a workman or otherwise only the nature of his functions is material and not if he has any employee working under him and therefore the aspect, if there were any other persons working under Party I or assisting him in his work is of no much significance and what is to be looked into is only the functions performed by Party I. It also follows from above that mention in Exb. E-3 (which is a letter of confirmation of services of P-1 as sectional head 1 in MDL) that services of Party I would be governed in accordance with the service terms and conditions of the company as applicable to the supervisory and officer cadre staff is of no avail to draw the conclusion that even as sectional head, the post of Party I was supervisory in nature. Also for this very same reason the statement made by the Party I (to which reference is made above), that post of Jr. Officer Grade A is a supervisory post also cannot be construed to say that upon further promotion as assistance Accountant Party I could be considered as holding the post of supervisory nature.

20. It is clear from the cross examination of Shri Gaikwad that Party I was not authorised to operate the bank accounts and that it was the General Manager who was authorised to operate the accounts. Shri Gaikwad has admitted that the authority to operate the bank account was given in writing. He has admitted that Party I was not authorised to appoint or to take disciplinary action against any person. Upon being shown the vouchers of payment at Exb. 3 and Exb. 4 Shri Gaikwad has identified the signature of Party I on the same but has stated that he does not know whether these vouchers are in the handwritting of Party I but the payment reflected in these vouchers were authorized not by Party I but by some other officer i.e. General Manager or Manager. Thus it is clear that though Party I was the only person working in the account department of Arlem Electronics, the nature of work which he was doing was writing and maintaining of accounts books and which work is purely of clerical nature. Thus merely because Party I was designated as Asst. Accountant Grade-B in Arlem Electronics it would not stand to reason to hold that he was not coming within the category

of the definition of the term "workman" and in such situation the observation in the judgment in the case of Mukand Ltd., (*supra*) squarely apply.

21. In his cross examination Party I was shown voucher dated 12-10-87 from book 1 Exb. W-2 and Party I has stated that the manager has signed on the same as General Manager. Party I has further stated that he has signed the voucher dated 7-10-87, 8-10-87, 12-10-87, 13-10-87, 15-10-87, 16-10-87, above the word "Assistant Manager" and that these vouchers are also signed by the manager above the word "Gen. Manager". Upon being shown the vouchers from book No. 2 Exb. W-3 Party I has stated that he has signed the vouchers dated 6-7-88, 7-7-88, 8-7-88, 11-7-88, 12-7-88, 13-7-88, 15-7-88, 16-7-88, 18-7-88, 20-7-88, 21-7-88, 22-7-88, 23-7-88, 26-7-88, 27-7-88, 28-7-88, 29-7-88, 30-7-88, 3-8-88, 4-8-88, 5-8-88, 6-8-88, 10-8-88, 11-8-88, 13-8-88, 16-8-88, 17-8-88, 18-8-88, 19-8-88, 20-8-88, 21-8-88, 22-8-88, 24-8-88, 25-8-88, 26-8-88, 27-8-88, 29-8-88, 2-9-88, 3-9-88, 5-9-88, 8-9-88, 9-9-88, 10-9-88, 12-9-88, 13-9-88, 14-9-88, 17-9-88, 19-9-88, 20-9-88, 22-9-88 and 24-9-88 the word "Assistant Manager" and that these voucher are also signed by the Manager above the word "General Manager". He has denied the suggestion that the manager sign the vouchers for payment only after he sign the same certifying the payment.

22. In the above context it is the contention of learned adv. for Party II that Party I has signed above the word "Assistant Manager" only because the post of Assistant Accountant is equivalent to the post of Assistant Manager which is a managerial/supervisory post. Even for that matter Shri Sambhaji Pawar has stated that Assistant Manager's post is a supervisory post but in his cross examination Shri Pawar has made it clear that there was no post of Assistant Manager as such in Arlem Electronics. It may be mentioned here that Shri Ashok Gaikwad has made it clear that all the appointments in the company are made by written orders signed by the Director and that no fresh appointment order was issued to Party I when he was transferred to Party II of Arlem Electronics. The above statement of Shri Gaikwad goes to show that when Party I was transferred to Party II he was holding the post as Assistant Accountant Grade-B and in the absence of any fresh appointment order designating in as assistant manager, it would not stand to reason to hold that the designation of Party I was as "Assistant Manager" at that time, merely because has signed on the aforesaid vouchers above the world "Asstt. Manager".

23. Even otherwise in his cross-examination Party I has stated that the category of promotion are from Sectional head to Jr. Officer; from Jr. Officer to Assistant Accountant; from Asst. Accountant to Manager (Accounts) and from Manager (Accounts) to General Manager (Accounts). The hierarchy of promotions as brought on record through the cross examination of Party I is not disputed by Party II not it has been suggested to Party I that the promotion from Jr. Officer is not only as Assistant Accountant but it also equal to "Assistant Manager". Surprisingly, in his chief examination Shri Ashok Gaikwad has given the hierarchy of promotion in Party II company as Section Head to Jr. Officer; to Asst. Manager/Asst. Accountant and so on and therefore in the situation as pointed out above and merely because Party I has signed the aforesaid voucher above the word Assistant Manager when in fact it is made clear by Shri Sambhaji Pawar that there was no post of Asst. Manager in Arlem Electronics, cannot be read to mean that Party I was holding the post of Asst. Manager in Arlem Electronics and therefore he falls in the category of non-Workman.

24. In the above context, Id adv. for Party I relied on the judgment in the case of **M/s Heckett Engineering Co., V/s Their Workmen, 1977 LAB I.C 1843** the observations in which indicate that if a Plant Manager signs in the place of General Manager without striking the word G.M., it cannot be presumed that the Plant Manager has signed for G.M. It is therefore clear from the above observations that merely signing above certain words which would give a higher designation, would not mean that the person signing, acquires the said designation. It may be mentioned here that the aforesaid vouchers are also signed by the Manager alongwith Party I above the word "General Manager" and therefore it cannot be construed that these vouchers are under the signature of only the Party I in his capacity as Assistant Manager and on the contrary the inference that could be drawn from above is that Party I has signed on the same being the Assistant Accountant in-charge of the cash.

25. It may be that the entire custody of the cash was with Party I but this by itself would not mean that the post of the Party I was supervisory/managerial in nature and this is because as an Assistant Accountant and only person in the Accounts Department, the custody of the cash would obviously remain with Party I. In the judgment in the case of **Vinayak Baburao Shinde V/s S.R. Shinde, Member Industrial Court, Thane and others 1985 1 CLR 318** the meaning of the

term "supervise" has been elaborated by stating that the word supervise means to oversee, that is to look after the work done by the other persons. It is observed that the word "supervision" occurring in Sec. 2(s) of the Act means supervision in relation to work or in relation to persons. It is stated that the essence of supervision consists in overseeing by one person over the work of others and this also involves a power in the person overseeing to direct and control the work done by the persons over whom he is supervising. Since the nature of power and control as stated above was not vested in Party I it would not be justified to say that the Party I was exercising duties of supervisory nature.

26. Party I has stated that he has signed some gate passes as well as RT-12 returns as per the instructions from the Manager, for the sake of convenience. In his cross examination Party I has stated that he was authorized by Arlem Electronics to issue the gate passes and sign RT-12 returns and that the Manager was also authorized to issue the gate passes. He has stated that the gate passes for the period from 25-4-88 to 16-3-89 (Exb. W-6 colly) are signed by him in the capacity as authorized agent on behalf of Arlem Electronics and that the gate pass dated 15-10-88 has been signed by him for Manager. He has stated that gate passes dated 13-1-88 and 9-3-88 are signed by Manager in-charge Shri Vincent D'Souza. He has stated that the gate passes are to be prepared before the goods are removed from the factory. Upon being shown RG-23A page Nos. 9, 13, 20 and 24 at Exb. W-8 colly, Party I has stated that the entries made in this form are in the handwriting of the consultant but he has signed the said forms as Assesse or the authorized agent of Arlem Electronics. He has stated that the entries on page No.9 in form RG-23A Part-II at Exb. 9 colly are in his handwriting. He has stated that making entries in Exb. W-8 colly and W-9 colly is not a responsible job.

27. In his arguments Id adv. for Party II submitted that the gate passes are prepared before the goods are removed from the factory and according to him a person who signs on the gate passes knows quite well the importance of his signature because unless the gate passes are signed the goods cannot be sent outside the factory. Thus according to Id adv. for Party II a person who signs the gate passes cannot be a Workman because there is responsibility and supervision shouldered on that person. However, Id adv. for Party I by inviting my attention to Rule 52A of the Central Excise Rules r/w Trade notice No. 20/94 dated 30-3-94 contended that only the MD/company secretary owner, Managing partner, employee holding a power of

attorney in case of proprietorship concern or an officer of the company who is authorized by the Board of Directors for authentication of invoices can only authenticate invoices. By inviting my attention to the cross examination of Shri Ashok Gaikwad he stated that though such authorization was given in writing to Party I. No Board resolution was taken to that effect. It may be mentioned here that Party I was shown in his cross examination a letter dated 29-4-88 and he has admitted that this letter was addressed to Supdt. Central Excise, Ponda by the Manager V. D'Souza stating that he (Party I) was authorized to sign the documents in the said letter and he had identified his signature on this letter which is marked as Exb. E-4.

28. Though in terms of Exb. E-4 the Manager of Arlem Electronics had authorized Party I to sign the gate passes and RT-12 returns, the fact that remains is that Party I was not authorized by the resolution of Board of Directors to authenticate the excise documents. Undoubtedly, no such resolution has been produced on record by Party II. It therefore follows from above that since Party I fell in the Workmen category, the Board of Directors did not take such resolution. This is more because it is admitted by Shri Sarnbhaji Pawar that his signature and the signature of the Manager must have been launched with the Excise Department for the purpose of signing the documents. In case Party I was holding managerial post his signature also would have been launched with the Excise Department pursuant to the resolution by Board of Directors and in such situation no occasion would arise for the Manager of Arlem Electronics to execute the letter of authorization as Exb. E-4. Merely because Party I was authorized to sign the gate pass and RT return and he performed this duty in such capacity and which acts of his bound the company, would not mean that Party I fell in the category of non-workman. Because though Party I has performed the above managerial duty, the same in the situation pointed out above cannot be said to be one of his main duties. This is also because Party I has categorically stated that he signed the gate passes and RT-12 returns as per the instructions of the Manager for the sake of convenience and the above statement made by Party I appears to be convincing because otherwise the major part of the work of Party I was of writing books of accounts and vouchers and handling cash etc.

29. Ld. Adv. for Party II to canvass his submission that document at Exb. E-4 is sufficient enough to hold that Party I is not a Workman since by his acts performed vide Exb. E-4 he could bind the company,

relied on the judgment in the case of **M/s Prakash Tolkies Badaun V/s State of Uttar Pradesh and others 2003 LLR 1133**. I have gone through this judgment in which vide a power of attorney, the respondent employee who was the Manager of petitioner theater was empowered to do all the acts for running of the cinema theater and he could take decisions to bind the firm, sue in the name of the firm and deal with all matters in relation to the laws, applicable to a cinema theater. Considering the above aspects amongst others, he was held not to be a Workman. It may be mentioned here that there is nothing in the judgment in the above case indicating that the firm therein was governed by any rules like Central Excise Rules, in the instant case, whereby authorization was required by the Board of Directors and therefore in such peculiar situation the powers exercised by the Manager in the above case pursuant to the power of attorney given to him were sufficient to exclude him from the definition of the term 'Workman' under the Act. That apart, reading of this judgment also makes it clear that the respondent therein in his absence, had appointed one Shri B. K. Agrawal as the in-charge of the theater and hence the extent of power vested in him which is of appointing another person as in-charge of theater was also considered while coming to the conclusion that the respondent was not a Workman. Thus, the facts in the case of the above judgment could be easily distinguished from the facts in the instant case and therefore the observations in this judgment cannot be made applicable to the instant case.

30. From the deposition of Party I as well as the documents produced by him it becomes clear that the job of Party I was mainly clerical which was of writing the books of accounts, preparing vouchers, preparing excise records etc. and therefore any other duty done by him besides his main duty has to be considered as the incidental work. Thus in the light of observations in the judgment in the case of **Western India (supra)** what appears is that the major work done by person has to be considered for deciding his status.

31. Ld. Adv. for Party II by referring to the judgment in the case of **Delhi Transport Corporation (surpa)** contended that Party I has failed to produce documentary evidence to prove that he was a Workman. It is observed in this judgment that documentary proof will always get preponderance over oral proof. It is observed that man may tell lies but documents cannot. It is above situation according to learned advocate for Party II any document showing that Party I was a non-Workman was required to be produced on

record. Upon reading of this judgment, it appears that the Workman therein was charged for not issuing tickets to the passengers after collecting fare from them. However, the challan memo signed by him showed the correct position and despite the fact that the two witnesses supported the case of the Workman, it was held that the challan memo contains the admission of the Workman and is the document of utmost importance. It was in this background observed that the documentary proof will always get preponderance over the oral evidence because it is well known axiom of law that man may tell lies but the documents cannot. In the case in hand, Party I has produced series or documents to establish the nature of duties performed by him and therefore in such situation and also considering the settled position of law that duties performed by a person form the basis of deciding his status. Party I could not be expected to produce better documentary evidence. Hence the observations in the above judgment cannot be imported in the instant case to say that Party I has not produced any documentary evidence in support of his contention.

32. It may be that upon his transfer as an Assistant Accountant with Chowgule and Co. Party I was getting facilities like reimbursement of medical expenses, conveyance allowance was also provided with a flat for accommodation and was paid a fixed sum of Rs. 1,800/- per year but this by itself is not sufficient to draw the conclusion that the above facilities were provided to Party I as the nature of his job was supervisory or managerial. This is because what is essential to find out if a person is a workman or not is not to see the facilities provided to the person by the company but to know the nature of functions he has been performing. It is for this very same reason no adverse inference also could be drawn against Party I over the fact that he was not a party to the settlement signed by the Union with Chowgule and Company.

33. It is therefore apparent from discussion supra that the main duties performed by Party I were essentially of clerical nature though sometimes he was performing works of supervisory/managerial nature but considering the settled law on the subject, this by itself cannot exclude Party I from the definition of the term 'Workman' and hence my findings.

34. *Issue No. 2:* Party I has stated that he applied for leave from 21-4-9 to 25-5-89 vide leave application dated 26-4-89 at Exb. W -10 but he was informed vide letter dated 8-5-89 (Exb. W-11) that his leave was sanctioned upto 16-5-89. He has

stated that he was advised to report to Mr. S.R. Kore on 17-5-89 and after he reported he found that his name was not figuring in the muster roll of the corporate office. Party I has stated that he was then told to approach Mr. A. M. Gaikwad and accordingly he went there but he could not meet Mr. Gaikwad on that day. He has stated that he met Mr. Gaikwad on 23-5-89 but he was advised to resign and threatened of action against him. Party I has stated that he gave conditional resignation which was not acceptable to Mr. Gaikwad and that he was not allowed to report. Party I has stated that on account of his sickness on 31-5-89 he went to Sangli where his family members were holidaying and sent leave application dated 31-5-89 to the General Manager under certificate of posting which he has produced at Exb. W-12. Party II has though admitted that management by its letter dated 8-5-89 sanctioned the leave of the Party I till 16-5-89 and advised Party I to report for duties on 17-5-89, has taken the stand that Party I instead of reporting for duty tried to remain away from the work. Party II has also denied the case of Party I that Mr. Gaikwad advised him to resign and asked to submit unconditional resignation letter. Party II has further denied that Party I fell sick and proceeded to Sangli. It may be mentioned here that reading of leave application of Party I dated 31-5-89 at Exb. W-12 makes it clear that Party I has mentioned in it about his sickness and had also furnished his address at Sangli.

35. It is further the case of Party I that he contacted doctor at Sangli and sent the medical certificate to Party II vide his letter dated 9-6-89 after he came back to Goa for reporting his duties at corporate office on 9-6-89 but he was again prevented from signing the muster roll and was not allowed to stay in the office. He has stated that he thereafter addressed the letter on 9-6-89 to the administrative manager and sent it under certificate of posting demanding reinstatement in service. Shri Ashok Gaikwad has produced the said letter dated 9-6-89 at Exb. E-19 and reading of this letter gives a sequence of events as narrated by Party I relating to as to what happened after he applied for leave from 21-4-89 to 25-5-89. Party II sent reply to the letter at Exb. E-19 dated 9-6-89 vide reply dated 20-6-89 (Exb. W-16 colly) informing Party I that his services were terminated with immediate effect vide their letter dated 3-6-89 (Exb. W-14 colly) which was sent to Party I at his Sangli address by registered post A. D. It may be mentioned here that in the letter at Exb. W-16 colly Party II has not controverted the sequence of events as mentioned by Party I in Exb. E-19 and hence the same are apparently proved by Party I.

Reading of the letter dated 03-6-89 at Exb. W-14 colly makes it clear that no reason as such has been assigned in it for terminating the services of Party I and therefore it becomes clear that the said termination amounts to retrenchment as defined u/s 2(00) of the Act. Hence my findings.

36. *Issue No.3:* Party I has stated that letter dated 3-6-89 (Exb.14 colly) pertaining to termination of his services was not accompanied by any cheque nor he had received any notice pay or retrenchment compensation alongwith the said letter. Perusal of Exb. 14 colly makes it clear that there is mention in it of enclosing cheque No. 89/BUF/CA/M No. 458135 dt. 6-6-89, at its foot. It is however noted that the contents of this letter state that Party I will be paid one months salary in lieu of notice. It has been rightly submitted by learned adv. for Party I by referring to the above contents of Exb. 14 colly that if cheque was enclosed alongwith this letter there was no reason to mention in it that Party I will be paid one months salary in lieu of notice. That apart, no reason has been assigned by Party II for enclosing cheque dated 6-6-89 and not dated 3-6-89 alongwith Exb. W-14 colly which speaks of termination of services of Party I with immediate effect. Thus, it is evident that cheque dated 6-6-89 was infact not enclosed alongwith letter at Exb. W-14 colly Party I has further stated that he had sent letter dated 9-6-89 (Exb.E-19) to the Administrative Manager of Party II requesting to allow him to join the duties and the said Administrative Manager replied this letter by reply dated 20-6-89 and also enclosed therein a cheque for Rs. 3,050 alongwith it. These documents are produced at Exb. E-16 colly. It deserves to be noted that the aforesaid statements made by Party I are not denied in his cross examination.

37. It is thus clear that no any cheque was enclosed by Party II alongwith letter of termination of services dated 3-6-89 (Exb. W-14 colly). I have already held in discussion supra that the termination of services of Party I amounts to retrenchment and therefore in my view, it was for Party II to have complied with the conditions precedent to the retrenchment as envisaged in Section 25F of the Act before terminating the services of Party I and one of which is that payment had to be made at the time of retrenchment. Having failed to comply with the above mandatory provision, it is clear that the termination of services of Party I by Party II is illegal and unjustified. Hence my findings.

38. *Issue No. 4:* It is otherwise not in dispute that in the course of adjudication of this reference Party I Shri P. K. Vaidhya expired. The above information was given to the Court by Ld. Adv. for Party I vide application dated 6-10-08 at Exb. 22 and accordingly the cause title was ordered to be amended by bringing on record the LR's of Party I. This being the situation the question of ordering reinstatement of Party I in service would not arise.

39. As regards claim of Party I for full back wages, as rightly pointed out by learned adv. for Party II, there is no pleading in the claim statement stating that after the termination of his services Party I was unemployed. Ld. Adv. for Party II relied on the judgment in the case of **Kendriya Vidhyalaya Sanghathan and Anr. v/s S.C Sharma 2005 LLR 275** in which it is observed that for entitlement of back wages the initial burden lies upon the employee to prove that he was not gainfully employed and thereafter the employer can rebut the same. He then relied on the judgment in the case of **U.P. State Bridge Corporation Limited v/s Maharashtra General Kamgar Union 2008 (2) Bom. CR. 619** in which it is observed that it is for the Workman to state categorically that he was not gainfully employed and was not in self gainful employment after termination of his services and this would be a consideration before the Court to direct payment of wages. I have already pointed out above that there are no pleadings on the subject of unemployment in the claim statement and therefore in such situation coupled with the observations in the aforesaid judgments, the only inference that could be drawn is that Party I has totally failed to prove that he was not gainfully employed after the termination of his services by Party II and therefore the question of payment of back wages to Party I his L. R.'s, does not arise.

40. Since the termination of services of Party I is held as illegal and unjustified and since in the situation pointed out above Party I cannot be reinstated nor could be paid back wages, the only amount to which the LR's of Party I are entitled to is the retrenchment compensation to which Party I would be entitled at the time of his retrenchment.

41. In his arguments ld adv. for Party II submitted that there is no functional integrity between Arlem Electronics and Arlem Breweries and that Arlem Breweries were manufacturing Arlern Beer and Arlem Electronics was manufacturing Electronic items. According to him Arlem Electronics has distinct and separate identity and it has nothing to do with Arlem Breweries. He also argued that

assuming without admitting if the Party I can claim any relief, it is only from the period from 1989 till 1994 since Arlem Electronics was permanently closed in the year 1994. It may be mentioned here that it is nowhere pleaded in the written statement that there is no functional integrity between Arlem Electronics and Arlem Breweries and therefore an attempt made to bring on record such a case through the evidence of the witnesses cannot be accepted. This is because case projected in the evidence without there being pleadings, cannot be looked into.

42. Be that as it may, for deciding whether there is functional integrity between Arlem Breweries and Arlem Electronics it has to be seen as to what kind of relationship existed between both these units. The suggestion put to Party I that there is no functional integrity between Party II and Arlem Electronics is denied by Party I. It is stated by Shri Sambhaji Pawar that Arlem Electronics was a division of Party II and that the functions of Party II and Arlem Electronics are totally different and there is no functional integrity between the two. Shri Ashok Gaikwad has stated that the products manufactured by Arlem Electronics has nothing to do with the products manufactured by Party II as it was a separate division set up for the purpose of manufacturing exclusively different electronic products. He has stated that there was no functional integrity between Arlem Electronics and Party II. In his cross examination Shri Gaikwad has stated that Party I was transferred from Chowgule and Co. to the accounts department of Party II and from there he was deputed to Accounts Department of Arlem Electronics. It is therefore clear from above evidence that though Arlem Electronics was a division of Party II, the products manufactured by both these units were different and it is basically for this reason, according to Party II there was no functional integrity between both these units. Nonetheless, it appears that Party I was deputed by Party II to the Accounts Department of Arlem Electronics which means that the parent department of Party I is Party II. It is pertinent to note that the vouchers dt. 12-7-88 to 16-9-88 in book II at Exb. W-4 are on the letter head of Arlem Breweries but they pertain to the accounts of Arlem Electronics. Being so, it becomes clear that for all purposes Arlem Electronics and Arlem Breweries is one establishment though products manufactured by both are different. Even otherwise, no evidence has been brought on record by party II to show that there was no unity of ownership, unity of management and control, unity of finance and unity of labour between both the units. This being the

case, manufacturing of different types of products by the above units cannot be the sole criteria to say that there was no functional integrity between both these units. Nonetheless, since Party I has not made out a case for grant of back wages, there is no reason for me to go into the above aspect of the matter while granting relief to Party I/his L.R.'s.

43. At any rate, the fact that stands established is that it was for Party II to have complied with the provisions of Sec. 25F of the Act at the time of retrenchment of Party I. Undoubtedly, Party I was in the employment till 3-6-89 and the present reference which is of the year 1994, is being adjudicated in the year 2013 which means that the matter is litigated for last 18 to 19 years. Being so Party I/his LR's deserve to be compensated upon taking into account all the above factors. It is nowhere the case of Party I that the amount of Rs. 3,050/- in cheque dated 6-6-89 (Exb. E-16 colly) does not constitute one months wage. Thus, in my view, payment of lumpsum of Rs. 1,50,000/- to the LR.'s of Party I being the amount towards retrenchment and other compensation, would meet the ends of justice. Hence my findings.

44. In the result and in view of discussion supra, I pass the following.

#### ORDER

1. It is hereby held that Shri P. K. Vaidhya, Assistant Accountant of M/s. Arlem Breweries Ltd. was a Workman under Section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).
2. It is hereby further held that the action of the management of M/s. Arlem Breweries Ltd. in terminating the services of Shri P. K. Vaidhya, Assistant Accountant, with effect from 3-6-89 is illegal and unjustified.
3. The Party II is directed to pay to the LR's of Party I namely Mrs. Veena Vaidhya, Ms. Manasi Vaidhya and Mr. Ameya Vaidhya, monetary compensation of Rs. 1,50,000/- (Rupees one lakh fifty thousand only) within two months from the date of publication of Award failing which the same shall carry interest at the rate of 9% p.a.
4. No order as to costs.

Inform the Government accordingly.

(B. K. Thaly),  
Presiding Officer,  
Industrial Tribunal-cum-  
-Labour Court

## Department of Personnel

—  
Order

File No. 12/1/2013-PER

Read: Government Order No. 12/3/2011-PER dated 27-12-2013.

On the recommendation of the Departmental Promotion Committee, the following Officials in the grade of Head Clerk/Sr. Stenographer (outside Secretariat) are promoted to the post of Superintendent (outside Secretariat) Group 'C' in the pay Band—2 ₹ 9,300-34,800+Grade Pay ₹ 4,600/- on regular basis with immediate effect.

1. Shri Bernadeta Fernandes.
2. Shri Mangaldas T. Kondvilkar.

The above officials shall be on probation for a period of two years.

Consequent upon above promotion, posting of the above Office Superintendents (outside Secretariat) are as shown below:

Sr. No.	Name of the Officer	Posted on promotion
1.	Shri Bernadeta Fernandes	Fisheries Department.
2.	Shri Mangaldas T. Kondvilkar	Electricity Department.

They shall exercise option within one month from the date of promotion to fix their pay in terms of F.R. 22(1)(a)(I).

The above promotees shall report to the respective Department by 17-02-2014 without fail.

By order and in the name of the Governor of Goa.

R. Aga, Under Secretary (PER-II).

Porvorim, 13th February, 2014.

—  
Order

File No. 11/5/2013-PER

Sanction of the Government is hereby accorded to Goa Human Resource Development Corporation to appoint the following Officers on Contract basis initially for a period of one year from the date of taking charge of the post, on the monthly consolidated pay shown against their names:

Sr. No.	Name of the Officers	Designation	Consolidated monthly pay
1.	Shri Madhukar D. Phal	Joint Managing Director	₹ 1.00 Lac per month.
2.	Lt. Col. (Retd.) Austin Colaco	General Manager (Security)	₹ 64,000/- per month.

The appointment of the above officers shall be subject to terms and condition contained in the Agreement to be executed by them with the Government.

The expenditure towards pay and allowances shall be debited to the Budget Head "8000—Contingency Fund, 3451—Secretariat Economic Services, 00, 800—Other Expenditure, 09—Grants to Goa Human Resource Development Corporation (P), 31—Grant-in-aid".

This issues with the concurrence of the Finance Department vide its U.O. No. 1482876 dated 29-01-2014.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 31st January, 2014.

—  
Order

File No. 6/16/2012-PER (PF.)

Consequent upon voluntary retirement of Shri Tulshidas Shirodkar, Junior Scale Officer of Goa Civil Service, Shri Mahesh Corjuenkar, Deputy Director (Admn.), Water Resources Department, shall hold charge of the post of Deputy Director (Child Welfare), in addition to his own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 10th February, 2014.

—  
Order

File No. 6/15/97-PER

Kum. Margaret Fernandes, Director, Public Grievances shall function as Member Secretary, Goa State Commission for Women, in addition to

her own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 6th January, 2014.

-----  
**Order**

File No. 13/4/2012-PER

Government of Goa is pleased to grant further extension in service to Smt. Valsala Vijayan, Dy. Resident Commissioner at Goa Sadan, New Delhi, beyond the date of her superannuation for a period of six months w.e.f. 01-04-2014 to 30-09-2014.

The extension is subject to termination without assigning any reasons at any time during the period of extension.

By order and in the name of the Governor of Goa.

*R. Aga*, Under Secretary (PER-II).

Porvorim, 17th February, 2014.

-----  
**Order**

File No. 6/13/2013-PER

The ad hoc appointment of the following officers in Junior Scale of Goa Civil Service, is extended further for the period indicated against their names or till the appointment is made on regular basis, whichever is earlier:

Sr. No.	Name of Officer	Ad hoc appointment extended upto
1.	Kum. Sangeeta Sakhambar	22-02-2014 to 21-02-2015.
2.	Shri Umakant Nhandu Korkankar	22-02-2014 to 21-02-2015.
3.	Smt. Fransquinha Oliveira	22-02-2014 to 21-02-2015.
4.	Shri Paresh M. Fal Desai	22-02-2014 to 21-02-2015.
5.	Shri Sudhir S. Kerkar	22-02-2014 to 21-02-2015.
6.	Satish B. Desai	22-02-2014 to 21-02-2015.
7.	Smt. Sangeeta S. Naik	22-02-2014 to 21-02-2015.

This is issued with the approval of GPSC conveyed vide their letter No. COM/II/11/40(5)/2012/2158 dated 11-02-21014.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 14th February, 2014.

-----  
**Order**

File No. 2/1/2001-PER (Part-IV)

Read: Order No. 2/1/2001-PER (Vol. IV) dated 28-02-2013.

The appointment of Shri Vallabh K. Kamat, as Ombudsman, made vide order read in preamble, is extended by another one year with effect from 28-02-2014 to 27-02-2015 in terms of clause (b) of sub-rule (2) of Rule 3 of the Goa Government Employees (Redressal of Grievances Forum) Scheme, 2001 as amended.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 17th February, 2014.

-----  
**Order**

File No. 6/16/2012-PER (PF)

Shri Gaurish Shankhwalkar, Deputy Collector & SDM, Mormugao holding additional charge of the post of Deputy Collector, Rent Control, Mormugao shall also hold charge of the post of Member Secretary, Ravindra Bhavan, Baina, Vasco-da-Gama in addition to his own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 13th February, 2014.

-----  
**Order**

File No. 15/19/2012-PER

Read: Memorandum No. 15/19/2012-PER dated 14-01-2014.

Order No. 15/19/2012-PER dated 05-02-2014.

The Governor of Goa is pleased to order transfer and posting of the following Officers in the cadre

of Mamlatdar/Jt. Mamlatdar/Assistant Director of Civil Supplies, on temporary basis with immediate effect, in public interest:

Sr. No.	Name of the Officers and Designation	Transferred as
1.	Kum. Sapna Shrikant Naik Bhandodkar	Jt. Mamlatdar-IV, Salcete (new post).
2.	Smt. Isha Mayur Sawant	Jt. Mamlatdar-I, Tiswadi.
3.	Shri Abhir Chandrakant Hede	Jt. Mamlatdar-I, Ponda.
4.	Kum. Nancy Fernandes	Jt. Mamlatdar-III, Bardez.
5.	Shri Mandar Mohan Naik	Jt. Mamlatdar-II, Pernem.
6.	Smt. Gautami Sachin Parmekar	BDO-III, Bardez (as a trainee who will assist the BDO-I).
7.	Shri Dattaraj Krishna Gauns Dessai	Jt. Mamlatdar-II, Canacona (new post).
8.	Shri Eshant Vasudev Sawant	Jt. Mamlatdar-I, Satari.
9.	Kum. Amalia Olivia Fatima Pinto	Jt. Mamlatdar-III, Bicholim (new post).
10.	Shri Ramesh Narayan Gaonkar	Jt. Mamlatdar-V, Salcete (new post).
11.	Smt. Sharmila Ulhas Gaunkar	Jt. Mamlatdar-I, Dharbandora (new post).

The officers at Sr. Nos. 1 to 6, 8 & 11 have reported on 10-2-2014 and Sr. Nos. 7, 9 & 10 have reported on 11-02-2014 to this administration and was on awaiting posting.

Smt. Gautami Sachin Parmekar shall draw her salary against the post of Block Development Officer, Tiswadi.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 13th February, 2014.

#### Order

File No. 15/6/2003-PER (part) Vol. I

Read: Order No. 15/6/2003-PER (Part) Vol I dated 01-07-2013.

Order No. 15/6/2003-PER (Part) dated 03-11-2010.

Order No. 15/6/2003-PER (Part) dated 06-12-2011.

Order No. 15/6/2003-PER (Part) Vol I dated 06-07-2012.

Order No. 15/6/2003-PER (Part) Vol I dated 15-11-2012.

Order No. 15/6/2003-PER (Part) dated 30-05-2012.

Corrigendum No. 15/6/2003-PER (Part) dated 30-05-2012.

Corrigendum No. 15/6/2003-PER (Part) dated 16-08-2012.

The ad hoc promotion of the following officers in the Cadre of Mamlatdar/Joint Mamlatdar/Assistant Director of Civil Supplies is hereby extended for further period indicated against their names or till the post are filled on regular basis, whichever is earlier:

Sr. No.	Name of the Officer	Ad hoc promotion extended From	To
1.	Kum. Shama Narvekar	03-11-2013	02-11-2014.
2.	Shri Laxmikant R. Dessai	03-11-2013	02-11-2014.
3.	Shri Laxmikant Kuttikar	30-11-2013	29-11-2014.
4.	Smt. Varsha Parab	30-11-2013	29-11-2014.
5.	Shri Manoj Korgaonkar	30-11-2013	29-11-2014.
6.	Shri Anish Prabhudessai	30-11-2013	29-11-2014.
7.	Shri Dasharath Gawas	30-11-2013	29-11-2014.
8.	Shri Vimod Dalal	30-11-2013	29-11-2014.
9.	Shri Anil V. Rane Sardesai	30-11-2013	29-11-2014.
10.	Shri Jeetendra Bugde	30-11-2013	29-11-2014.

This issues with the approval of Goa Public Service Commission conveyed vide their letter No. COM/II/11/42(2)/2012/2134 dated 06-02-2014.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 14th February, 2014.

**Order**

File No. 2/7/76-PER (Vol. III) Part

- Read: 1) Order No. 2/7/76-PER (Vol. III) Part dated 22-09-2000.  
 2) Order No. 2/7/76-PER (Vol. III) Part dated 04-02-2008.  
 3) Order No. 2/7/76-PER (Vol. III) Part dated 17-10-2008.  
 4) Order No. 2/7/76-PER (Vol. III) Part dated 16-12-2008.  
 5) Order No. 2/7/76-PER (Vol. III) Part dated 02-01-2013.  
 6) Order No. 2/7/76-PER (Vol. III) Part dated 22-10-2013.

In supersession of order referred to above, the Government is pleased to reconstitute with immediate effect, the Departmental Selection Committee/Departmental Promotion Committee for Group 'C' posts in the Police Department as under:

1. Deputy Inspector General — Chairman.  
of Police (S.B)
2. Superintendent of — Member.  
Police (HQ)
3. Under Secretary (Home-I) — Member.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 21st February, 2014.

**Department of Revenue****Order**

No. 22/9/2013-RD

Whereas, the Government of Goa, vide Notification No. 22/09/2013 dated 25-04-2013, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act") and published in the Official Gazette, Series II No. 5, dated 02-05-2013, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for widening of existing road on Sy. No. 78/2 in Village Panchayat Rachol (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5-A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 22/09/2013 dated 06-12-2013, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 37 dated 12-12-2013, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, South Goa District, Margao-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

*Ashutosh Apte*, Under Secretary (Revenue-I).

Porvorim, 21st February, 2014.

**Order**

No. 3/5/2005-RD (Part)

In exercise of the powers conferred by Articles 21 and 22 of the Legislative Diploma No. 645 dated 30-03-1933 read with Section 21 of the General Clauses Act, 1897 (Central Act No. 10 of 1897) and all other powers enabling it in this behalf, the Government of Goa hereby rescinds the Government Order No. 7729 dated 14th January, 1960, with immediate effect.

By order and in the name of the Governor of Goa.

*Anju S. Kerkar*, Under Secretary (Revenue-II).

Porvorim, 25th February, 2014.

**Notification**

No. 22/36/2013-RD

Whereas by Government Notification No. 22/36/2013-RD dated 02-12-2013 published on pages 923 & 924 Series II No. 39 of the Official Gazette dated 31-12-2013 and in two newspapers (1) "Times of India" dated 01-01-2014 and (2) "Navaprabha" dated 02-01-2014 it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land) was

needed for public purpose, viz. Land Acquisition for construction of Solid Waste Management Facility in Cacora village of Quepem Taluka.

And whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5A the said Act is satisfied that the land specified in the schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares, under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government also hereby appoints under clause (c) of Section 3 of the said Act, the Deputy Collector & SDO, Quepem, Goa to perform the functions of the Collector, for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

A plan of the said land can be inspected at the office of the Deputy Collector/SDO, Quepem, Goa, till the award is made under Section 11.

#### SCHEDULE

(Description of the said land)

Taluka: Quepem		Village: Cacora
Survey No./ Sub-Div. No.	Names of the persons believed to be interested	Approx. area in sq. mts.
1	2	3
164/8 (part) O:	Narottam Hiru Kakodkar.	110
165/1 (part) O:	Narottam Hiru Kakodkar.	1180
168/2	O: 1. Govind Mahadeo Naik Karmali. 2. Krishna Dulba Naik Karmali. 3. Dinanath Vishwanath Cuncolienkar. 4. Damu Datta Naik Karmali. 5. Vinayak Gopinath Naik Karmali. 6. Sadanand Saklo Kakodkar. 7. Narottam Hiru Kakodkar. 8. Mohini G. Lotlikar.	6175
169/0	O: Shri Deu Vithal.	10300

#### Boundaries:

North : S. No. 167, 168/1, Nalla,  
Road, 164/8, 165/1.

1	2	3
South :	S. No. 167, 168/1, 164/8, 165/1, 170/1.	
East :	S. No. 167, 165/1, 2, Nalla.	
West :	S. No. 167, 165/1, 168/1, Nalla.	
		Total: 17765

By order and in the name of the Governor of Goa.

Ashutosh Apte, Under Secretary (Revenue-I).

Porvorim, 21st February, 2014.

#### Corrigendum

No. 23/20/2013-RD

Read: Government Notification No. 23/20/2013-RD dated 28-06-2013 regarding Land Acquisition for development of road leading to Agadye village in P. Surla in Bicholim Taluka published in the Official Gazette No. 14, Series II dated 04-07-2013 and two local news papers viz "Goa Dooth" and "The Navhind Times" both dated 02-07-2013.

In the schedule appended to the above cited Notification No. 23/20/2013-RD dated 28-06-2013, in Survey No. 380/1, 379/1 and 380/1 the name "Chandrakant Auta Gauda" may be read as "Chandrakant Anta Gauda".

The rest of the contents of Notification shall remain unchanged.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 24th February, 2014.

#### Department of Science, Technology & Environment

#### Order

No. 7/4/98/STE/DIR/Part 1/1654

In pursuance of the sub-rule (3) of Rule 5 of the Noise Pollution (Regulation & Control) Rules, 2000, the Government of Goa is pleased to direct the "authority" specified in the Government Notification No. 7/4/98/STE/DIR/Part I/922 dated 04-12-2007, published in the Official Gazette,

Series II No. 37 dated 13-12-2007, and Notification No. 7/4/98/STE/DIR/Part I/1545 dated 15-01-2010, to permit the use of loudspeakers or public address system during night hours (between 10.00 p.m. to 12.00 midnight) during the year 2014, on the days specified in the Schedule hereto, through out the State of Goa.

“Terms and conditions for issue of permission.

1. The permission shall be granted only on a case-to-case basis, in response to a specific application made by the concerned Village Panchayat, Municipal Corporation/Municipal Council or an individual.
2. The provisions of the Noise Pollution (Regulation and Control) Rules, 2000 shall be strictly complied with.
3. The ‘authority’ concerned shall monitor the noise levels during the permitted festive occasion and take prompt remedial action in the event of any violation of the same and of above conditions.”

#### SCHEDULE

Sr. No.	Cultural/Religious festive occasion	Date
1	2	3
1.	Carnival	04th March, 2014.
2.	Holi	16th March, 2014.
3.	Easter Eve	19th April, 2014.

1	2	3
4.	Ganesh Chaturthi (2nd day of idol immersion)	30th August, 2014.
5.	Ganesh Chaturthi (5th day of idol immersion)	02nd September, 2014.
6.	Ganesh Chaturthi (11th day of idol immersion)	08th September, 2014.
7.	Navaratri (1st day of Navaratri)	25th September, 2014.
8.	Navaratri (last day of Navaratri)	02nd October, 2014.
9.	Kojagiri Poornima	07th October, 2014.
10.	Diwali Eve	21st October, 2014.
11.	Diwali	22nd October, 2014.
12.	Tripurari/Kartiki Purnima	06th November, 2014.
13.	Christmas Eve	24th December, 2014.
14.	Christmas	25th December, 2014.
15.	New Year's Eve	31st December, 2014.

By order and in the name of the Governor of Goa.

*Levinson J. Martins*, Director & ex officio Joint Secretary (STE).

Saligao, 20th February, 2014.

[www.goaprintingpress.gov.in](http://www.goaprintingpress.gov.in)

Published and Printed by the Director, Printing & Stationery,  
Government Printing Press,  
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE—Rs. 24.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA-356/380-2/2014.